

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE SERENGETI TRADING COMPANY, L.P.,

Plaintiff,

-v-

EMPIRE COFFEE COMPANY, INC.

Defendant.

X

:

Civil Action No.: _____

:

COMPLAINT

:

**DEMAND FOR
JURY TRIAL**

:

:

:

:

X

Plaintiff The Serengeti Trading Company, L.P., by and through its attorneys, The Law
Offices of Mark R. Kook, for its Complaint against Defendant Empire Coffee Company, Inc.
alleges as follows:

Nature of this Action

1. Plaintiff The Serengeti Trading Company, L.P. (“Serengeti”) is a green coffee
importer. Plaintiff Serengeti entered into a contract and agreement (the “Contract”) with Defendant
Empire Coffee Company, Inc. (“Empire”).

2. The Contract concerned the sale of imported coffee beans (the “Product”) by
Plaintiff Serengeti to Defendant Empire, which is a roaster, which sells roasted coffee to various
customers.

3. The parties had enjoyed a mutually beneficial relationship for over 23 years. During
that time, Defendant Empire purchased from and paid Plaintiff Serengeti approximately \$35
million, for the Product. There were instances during that period when Defendant Empire’s balance
owed to Plaintiff Serengeti approached \$1 million, but payments were always paid to substantially
reduce the outstanding balance.

4. The Parties agreed that any payment made by Defendant Empire would be applied against the oldest outstanding Invoice as of the time Plaintiff Serengeti received the payment from Defendant Empire. For example, the most recent payment that Plaintiff Serengeti received from Defendant Empire was on June 14, 2024. In the amount of \$29,656.58. That payment was applied to the following Past Due Invoices:

- Inv 68351 \$17,254.40
- Inv 68406 \$11,054.48
- Inv L3520 \$1,347.70

5. After receiving these funds, Plaintiff Serengeti released \$26,156.58 worth of coffee to Defendant Empire. As per the Parties' agreement, this reduced the overall balance due from Defendant Empire by \$3,500. This method has been repeatedly used to reduce the balance owed by Defendant Empire (by its agreement and ratification, without dispute) over the last few years.

6. However, despite that payment on June 16, 2024, in fact since the beginning of May 2023, Defendant Empire has failed to pay for almost all of the Product that it had ordered and took delivery of from Plaintiff Serengeti.

7. Defendant Empire never disputed the delivery of, or the quality of any of Plaintiff Serengeti's coffee beans.

8. Defendant Empire did not ever dispute or otherwise complain of any Invoice received from Plaintiff Serengeti.

9. Defendant Empire did not dispute or otherwise complain of any late fee assessed by Plaintiff Serengeti because Defendant Empire was late in paying an Invoice.

10. Defendant Empire had, until May 2023, paid the amount set forth in virtually every Invoice.

11. Nevertheless, although Defendant Empire promised and agreed to pay all amounts for the Product that Defendant Empire ordered and was shipped to it pursuant to each Invoice, Defendant Empire stopped paying all Invoices after May 2, 2023.

12. Consequently, Plaintiff Serengeti seeks in this action an amount not less than \$600,000 (the “Outstanding Debt”) (see Schedule of unpaid Invoices submitted herewith as Exhibit 1), which Defendant Empire owes Plaintiff Serengeti as the result of Defendant Empire’s breach of contract, and for an account stated and not disputed.

Parties, Jurisdiction and Venue

13. Plaintiff Serengeti is a company organized under the laws of Texas with its offices located at 19100 Hamilton Pool Road, Dripping Spring, Texas.

14. Plaintiff Serengeti’s sole owner is Bert von Roemer, who is a citizen of Texas, and resides in Texas.

15. Upon information and belief, Defendant Empire is a corporation organized under New York law, and maintains its offices at 106 Purdy Avenue, Port Chester, New York.

16. This Court has original jurisdiction of this civil action pursuant to 28 U.S.C. § 1332(a) (diversity) because Plaintiff and Defendant are citizens of different States and the amount in controversy exceeds the sum or value of \$75,000.

17. Venue is proper in this judicial district because this is where Defendant Empire maintains its principal office and a substantial part of the events and transactions giving rise to Plaintiff Serengeti’s claims occurred. See 28 U.S.C. § 1391(b).

General Allegations

18. In or about 2000, Plaintiff Serengeti and Defendant Empire entered into the Contract concerning Defendant Empire’s purchase of imported coffee beans from Plaintiff Serengeti for shipment to Defendant Empire in Port Chester, New York.

19. Plaintiff Serengeti's business process with Defendant Empire, as with Plaintiff's other customers, was as follows.

20. When Plaintiff Serengeti agreed upon a sales contract with a customer (including price, terms, etc.), Plaintiff Serengeti issued a sales contract ("Sales Contract") to document the agreement and a copy is sent to the customer - - such as Defendant Empire. This is typically done months before the customer expects to request delivery of the coffee.

21. Plaintiff Serengeti then notifies its warehouse, at which the coffee beans are stored, that title has been transferred from Plaintiff Serengeti to the customer. Plaintiff Serengeti then produced a Delivery Order, and that document is sent to both the warehouse and the customer.

22. After a Delivery Order is issued, Plaintiff Serengeti then produces an Invoice and sends that to the customer.

23. When a customer pays an Invoice past the due date, Plaintiff Serengeti sends a separate late fee invoice to the customer.

24. Each Invoice states that late fees will be charged for Invoices paid after the due date.

25. Attached as Exhibit 1 is a detail of the unpaid Invoices owed and not paid (and not disputed) by Empire Coffee as of July 19, 2024 totaling \$596,303.40, which is the Outstanding Debt.

26. Plaintiff Serengeti and Defendant Empire have had numerous written and oral communications since May 2023 in which Defendant Empire has acknowledged its Outstanding Debt and promised and represented that the Outstanding Debt will be paid.

27. Nevertheless, Defendant Empire has not paid any of the Outstanding Debt.

FIRST CLAIM FOR RELIEF

Breach of Contract

28. Plaintiff Serengeti repeats each allegation set forth in Paragraphs 1 through 27 of the Complaint.

29. Plaintiff Serengeti fully performed all of its obligations under the Contract between Plaintiff Serengeti and Defendant Empire.

30. Defendant Empire has failed and refused to honor its obligations to pay Plaintiff Serengeti for the Products it ordered and received in connection with each of the Invoices comprising the Outstanding Debt.

31. As a result of the foregoing, Defendant Empire has breached its Contract with Plaintiff Serengeti.

32. Plaintiff Serengeti has suffered damages as a result of Defendant Empire's breach, in an amount to be determined at trial, but no less than the Outstanding Debt of \$600,000.

33. As a result of the foregoing, Plaintiff Serengeti is entitled to judgment in an amount to be determined at trial, but not less than the Outstanding Debt of \$600,000, along with its costs and disbursements and reasonable attorneys' fees.

SECOND CLAIM FOR RELIEF

Quantum Meruit

34. Plaintiff Serengeti repeats each allegation set forth in Paragraphs 1 through 33 of the Complaint.

35. Plaintiff Serengeti performed its obligations to provide the product in good faith based on Defendant Empire's written instruction to do so, and upon subsequent written and verbal confirmations with Defendant Empire.

36. Defendant Empire did not object to Plaintiff Serengeti's performance of the Agreement and, in fact, Defendant Empire repeatedly and for many years requested that Plaintiff Serengeti continue to perform as required by the Contract, as directed, approved and ratified by Defendant Empire.

37. Plaintiff Serengeti performed the services with the reasonable expectation that it would be paid for the services.

38. Based on reasonable and customary rates in the industry, the reasonable value of the transactions reflected in the Invoices, comprising the underlying Outstanding Debt, is not less than \$600,000.

39. Defendant Empire has failed and refused to compensate Plaintiff Serengeti for its Product.

40. As a result of the foregoing, Plaintiff Serengeti is entitled to judgment in an amount to be determined at trial, but not less than \$600,000, along with its costs and disbursements and reasonable attorneys' fees.

THIRD CLAIM FOR RELIEF

Account Stated

41. Plaintiff Serengeti repeats each allegation set forth in Paragraphs 1 through 40 of the Complaint.

42. The sale by Plaintiff Serengetti of the Product to Defendant Empire provided great value to Defendant Empire.

43. Defendant Empire did not object to Plaintiff Serengeti's performance of the agreement or dispute the amount of the Outstanding Debt and, in fact, Defendant Empire repeatedly and for many years requested that Plaintiff Serengeti continue to perform as required by the Contract, all as directed, approved and ratified by Defendant Empire.

44. Based on the foregoing industry, Defendant Empire is liable for an Account Stated in an amount of at least \$600,000.

45. As a result of the foregoing, Plaintiff Serengeti is entitled to judgment in an amount to be determined at trial, but not less than \$600,000, along with its costs and disbursements and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Serengeti respectfully requests that the Court enter judgment against Defendant Empire as follows:

- a. Awarding compensatory damages in an amount to be determined at trial but not less than \$600,000.
- b. Awarding Plaintiff Serengeti its costs and disbursements plus attorneys' fees; and
- c. Granting such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Plaintiff Serengeti demands trial by jury in this action of all issues so triable.

Dated: July 22, 2024

LAW OFFICE OF MARK R. KOOK

By: 

Mark R. Kook
Two Park Avenue, 20th Floor
New York, NY 10016
Tel.: (917) 673-9869
mkook@kooklaw.com
Attorneys for Plaintiff

EXHIBIT 1 to the Complaint

A/R Aging QuickZoom
 As of July 18, 2024

Type	Date	Num	P. O. #	Terms	Due Date	Aging	Open Balance	
Empire Coffee Co								
Invoice	05/02/2023	L3530	Late fee	Late Fee	06/16/2023	443	5,939.16	
Invoice	05/17/2023	L3540	Late fee	Late Fee	05/17/2023	428	2,937.20	
Invoice	06/01/2023	L3551	Late fee	Late Fee	06/01/2023	413	2,800.42	
Invoice	06/20/2023	L3565	Late fee	Late Fee	06/20/2023	394	1,516.35	
Invoice	07/17/2023	L3591	Late fee	Late Fee	08/31/2023	367	1,920.08	
Invoice	08/02/2023	L3602	Late fee	Late Fee	08/02/2023	351	2,251.06	
Invoice	08/16/2023	L3618	Late fee	Late Fee	08/16/2023	337	1,774.50	
Invoice	09/05/2023	L3629	Late fee	Late Fee	09/05/2023	317	867.73	
Invoice	09/18/2023	L3640	Late fee	Late Fee	09/18/2023	304	775.61	
Invoice	10/02/2023	L3650	Late fee	Late Fee	10/02/2023	290	855.49	
Invoice	11/02/2023	L3679	Late fee	Late Fee	11/02/2023	259	2,437.76	
Invoice	12/19/2023	L3732	Late fee	Late Fee	12/19/2023	212	987.64	
Invoice	01/03/2024	L3747	Late fee	Late Fee	01/03/2024	197	1,085.04	
Invoice	02/06/2024	L3776	Late fee	Late Fee	02/06/2024	163	1,707.96	
Invoice	06/04/2024	L3884	Late fee	Late Fee	06/04/2024	44	5,148.31	
Invoice	06/18/2024	L3897	Late fee	Late Fee	06/18/2024	30	14,146.86	
Invoice	07/15/2024	L3936	Late fee	Late Fee	07/15/2024		50,299.04	97,450.21
Invoice	04/11/2023	68406	S116205	Net 45	05/26/2023	419	4,634.99	
Invoice	04/20/2023	68500	S116205	Net 45	06/04/2023	410	14,063.83	
Invoice	04/25/2023	68531	S116205	Net 45	06/09/2023	405	11,623.34	
Invoice	05/01/2023	68618	S116205	Net 45	06/15/2023	399	15,665.20	
Invoice	05/15/2023	68763	S118699	Net 45	06/29/2023	385	18,528.72	
Invoice	05/31/2023	68876	S115361	Net 45	07/15/2023	369	31,028.65	
Invoice	06/05/2023	68996	S115361	Net 45	07/20/2023	364	31,028.65	
Invoice	06/16/2023	69147	S115361	Net 45	07/31/2023	353	34,022.13	
Invoice	06/28/2023	69178	S118700	Net 45	08/12/2023	341	18,068.82	
Invoice	06/28/2023	69306	S120046	Net 45	08/12/2023	341	23,277.93	
Invoice	06/28/2023	69323	S120528	Net 45	08/12/2023	341	9,590.01	
Invoice	07/18/2023	69423	S120424	Net 45	09/01/2023	321	17,433.32	
Invoice	07/18/2023	69541	S116205	Net 45	09/01/2023	321	14,407.84	
Invoice	07/27/2023	69592	S120424	Net 45	09/07/2023	315	10,379.33	
Invoice	08/22/2023	69754	S120424	Net 45	10/06/2023	286	12,921.24	
Invoice	08/22/2023	69882	S121173	Net 45	10/06/2023	286	9,590.01	
Invoice	09/21/2023	70137	S118539	Net 45	11/05/2023	256	15,702.28	
Invoice	09/22/2023	70322	S118539	Net 45	11/06/2023	255	16,779.48	
Invoice	10/25/2023	70652	S120626	Net 45	12/09/2023	222	4,961.15	
Invoice	10/27/2023	70726	S121173	Net 45	12/11/2023	220	9,709.89	
Invoice	10/27/2023	70727	S118701	Net 45	12/11/2023	220	19,292.29	
Invoice	10/27/2023	70728	S118700	Net 45	12/11/2023	220	16,788.34	
Invoice	01/16/2024	71594	S116205	Net 45	03/01/2024	139	19,083.81	
Invoice	05/24/2024	73271	S123933	Due on receipt	05/24/2024	55	29,702.88	
Invoice	06/11/2024	73463	S123933	Due on receipt	06/11/2024	37	29,610.29	
Invoice	06/14/2024	73505	S123933	Due on receipt	06/14/2024	34	29,656.58	
Invoice	05/21/2024	73155	S118539	Net 45	07/05/2024	13	31,302.19	498,853.19
Total Empire Coffee Co							596,303.40	596,303.40